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10 *Superintendent of Public Instruction, and State*
Board of Education

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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16 **EMMA C., et al.,**

17 Plaintiffs,

18 **v.**

19 **THURMOND, et al.,**

20 Defendants.
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3:96-cv-04179-VC

**STATE DEFENDANTS'
SUPPLEMENTAL PHASE 3B CIM STEP
1 SUBMISSION**

Judge: The Honorable Vince Chhabria

Pursuant to the Court's October 23, 2023 Order (Order) following the proceedings held on October 17, 2023 (Dkt. 2743), Defendants California Department of Education (CDE), Tony Thurmond, in his official capacity as the State Superintendent of Public Instruction, and the State Board of Education (SBE) (collectively, State Defendants or the State) hereby submit State Defendants' Supplemental Phase 3B CIM Step 1 Submission.

The Order required Plaintiffs, in consultation with the Court Monitor, to put together a list of documents to be produced and filed on the docket as a supplement to the State's August 18, 2023 Phase 3B filing. On October 20, 2023, Plaintiffs' counsel served a list of requested documentation to be filed to supplement the State's Phase 3B CIM Step 1 submission. The parties thereafter met and conferred as to the scope and timing of those requests, and the State now hereby submits its Supplemental Submission to the State's Phase 3B CIM Step 1 Submission, as follows:

Plaintiffs' Requests 1a.-1d.: General information regarding CDE consultants (documentation and/or information relating to consultant assignments, caseloads/staffing ratios, required/desired qualifications and training and supervision).

State Defendants' Response: The State hereby produces the responsive documents and/or information of which it has presently available. To the extent that the request requires the State to provide explanations and/or other context beyond existing documentation in the State's possession, the parties have stipulated and agreed that the State will make a good faith effort to supplement its response and provide any remaining documentation and/or information in the State's next submission which is currently due on December 8, 2023.

As to Plaintiffs' request 1.a. (consultant assignments), the State produces documentation attached hereto as **Exhibit 255**, which contains the link to the eleven California County Superintendents Educational Association (CCSESA) regions, and provides the following response:

Generally, assigning CDE consultants to monitor specific local educational agencies (LEAs) begins with the CCSESA region assigned to a CDE consultant, but other factors, impact the final assignment, including:

- Equitable workload (amongst consultants in a particular Focused Monitoring and Technical Assistance [FMTA] Unit);
- Consultant expertise;
- A consultant having an existing, working relationship with the LEA; and/or
- To the extent possible, having one consultant in the FMTA unit be the point-person for all LEAs under the same Special Education Local Plan Area (SELPA).

As to Plaintiffs' request 1.b. (consultant caseloads/staffing ratios), the State produces documentation attached hereto as:

- **Exhibit 256**, a summary table of the total count of LEAs by Tier and Level, or Small LEA monitoring; and
- **Exhibit 257**, a summary table of the total count of LEAs by Tier, Level and primary reason for monitoring selection, or Small LEA monitoring.

As to Plaintiffs' request 1.c. (required/desired qualifications of consultants), the State produces the following documentation attached hereto as:

- **Exhibit 258**, a copy of the Intensive Consultant job posting;
- **Exhibit 259**, a copy of the Intensive Consultant proposed duty statement;
- **Exhibit 260**, a copy of the Targeted Consultant job posting;
- **Exhibit 261**, a copy of the Targeted Consultant proposed duty statement;
- **Exhibit 262**, a copy of the Small Consultant job posting;
- **Exhibit 263**, a copy of the Small LEA Consultant proposed duty statement; and
- **Exhibit 264A**, the link to the California Department of Human Resources (CalHR) website, for Education Program Administration Series: <http://www.calhr.ca.gov/state-hr-professionals/Pages/2655.aspx>.

As to Plaintiffs' request 1.d. (training/supervision of consultants), the State responds that the State will make a good faith effort to obtain the requested documentation and/or information and provide any remaining documentation or information in the State's next submission which is currently due on December 8, 2023.

Plaintiffs' Requests 2.a.-e.: General information regarding Technical Assistance (TA) Providers (documentation and/or information relating to TA Provider selection, assignments, caseloads/staffing ratios, training and supervision, oversight, and allocation of TA support/resources among LEAs).

State Defendants' Response: The State hereby produces the responsive documents and/or information of which it has presently available. To the extent that the request requires the State to provide explanations and/or other context beyond existing documentation in the State's possession, and/or request the information from the TA Providers themselves, the parties have stipulated and agreed that the State will make a good faith effort to supplement its response and provide any remaining documentation or information in the State's next submission which is currently due on December 8, 2023. The State responds more specifically, as follows:

As to Plaintiffs' requests 2.a.-e. (TA Provider selection, assignments, caseloads/staffing ratios, training and supervision, oversight, and allocation of TA support/resources among LEAs), the State produces the following documentation attached hereto as:

- **Exhibit 264B**, the link to the California Special Education Technical Assistance Network (CALTAN) website: <https://caltan.info/partners>, which lists the current TA Providers that the CDE contracts with for Technical Assistance.

As to the remainder of Plaintiffs' requests 2.a.-e., the State will make a good faith effort to obtain the requested documentation and/or information and provide any remaining documentation or information in the State's next submission which is currently due on December 8, 2023.

Plaintiffs' Request 3: Description of technical system that will tailor CIM activities based on LEA's selection criteria/needs.

State Defendants' Response: The technical system, when fully functional, will permit the CDE to create an LEA-specific activity that requires an LEA to review student files or an LEA's policy or procedure specific to missed performance elements. The technical software will permit the CDE to tailor specific compliance items to the performance element, and permits the CDE to generate student samples to require an LEA to review particular student files or policies and procedures specific to missed performance elements.

1 Depending on the Tier and Level, the technical system allows for the LEA to complete the
 2 activity independently and submit the results directly to their CDE consultant (Targeted and
 3 Small LEAs) or allow for the CDE consultant to conduct the review on behalf of the LEA. When
 4 found, the system generates a findings letter and issues corrective actions (both student-and
 5 district-level) to the LEA for the LEA to correct and provide evidence of correction to the CDE.

6 In order to demonstrate that noncompliance has been corrected, the State must verify that
 7 the LEA is correctly implementing the specific regulatory requirement (100% compliance). The
 8 technical system permits a subsequent review of student files for items found noncompliant.

9 **Plaintiffs' Request 4.a.i.:** For each LEA and for each CIM activity, a detailed list and
 10 description of the documents and materials that CDE consultant, TA Provider (if applicable) and
 11 SELPA received and reviewed from the LEA.

12 **State Defendants' Response:** The State made a good faith effort to obtain documents
 13 received by the CDE consultants. In addition, the State obtained additional documents that are
 14 not collected by CDE and/or not required to be collected by CDE, but of which CDE has access
 15 to, in an effort to provide Plaintiffs' with a broader understanding of the CIM activity outputs.
 16 The State hereby produces such documentation, attached hereto as **Exhibits 265-305**.

17 As for the documents that are reviewed by the SELPAs and/or TA Providers, the parties
 18 stipulated and agreed that the State will make a good faith effort to obtain these documents and
 19 include them in the State's final Phase 3B submission, currently due on February 23, 2024.

20 **Plaintiffs' Request 4.a.ii.:** For all documents that CDE did not receive, an explanation of
 21 how, if at all, CDE verified that the documents were submitted timely and correctly.

22 **State Defendants' Response:** The State will make a good faith effort to obtain the
 23 requested documentation and/or information and, as stipulated and agreed between the parties, the
 24 State will provide any remaining documentation or information in the State's next submission
 25 which is currently due on December 8, 2023.

26 **Plaintiffs' Request 4.b.iii.:** All documents associated with the data drill down for LEAs 1
 27 – 3 (the documents the LEAs submitted to the SELPAs).
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1 **State Defendants' Response:** The State does not collect this information as part of the
 2 CIM process, nor did the State agree to collect this information as part of the CIM process.
 3 Despite this, the parties have stipulated and agreed that the State will make a good faith effort to
 4 obtain the requested documentation and/or information and provide any remaining documentation
 5 or information in the State's final Phase 3B submission, which is currently due on February 23,
 6 2024.

7 **Plaintiffs' Request 4.b.iv.:** For each LEA and for each CIM activity, any summary,
 8 review, documents and/or progress reports that were not included in the original Phase 3B
 9 submission.

10 **State Defendants' Response:** The State has made a good faith effort to obtain documents
 11 received by the CDE consultants after the June 30, 2023 cut-off date as part of the LEAs Step 1
 12 submission, and the State hereby produces such documentation, attached hereto as **Exhibits 306-**
 13 **311.**

14 As to any documentation that is related to Step 2 CIM activities, the State responds that
 15 such documentation, if any, will be included in the State's second Phase 3B Submission currently
 16 due on December 8, 2023.

17 **Plaintiffs' Request 4.b.v.:** A list and description of what CDE reviewed for each LEA and
 18 each CIM task for the policies, practices and procedures review, student records review, and
 19 educational benefit review, for 1 LEA in targeted and 1 LEA in intensive monitoring.

20 **The State's Response:** The parties have stipulated and agreed that the State will make a
 21 good faith effort to obtain the requested documentation and information but that additional time is
 22 needed to complete the request. The State will strive to complete the request by the State's next
 23 submission currently due on December 8, 2023, and if not then, by the final Phase 3B Submission
 24 of the State currently due on February 23, 2024.

25 **Plaintiffs' Request 4.b.i.:** Documentation of communication relevant to monitoring the
 26 eleven exemplar LEAs that is in the possession of CDE or the CDE consultants.

27 **The State's Response:** The State has made a good faith effort to obtain the requested
 28 documentation and hereby attaches the documentation hereto as **Exhibits 312-322.**

1 **Plaintiffs' Request 4.b.ii:** Correspondence: Documentation of communication relevant to
2 monitoring the eleven exemplar LEAs between the LEAs and their SELPAs and their TA
3 providers.

4 **The State's Response:** The State will make a good faith effort to obtain the requested
5 documentation and as stipulated between the parties, the State will produce the documentation it
6 gathers as part of the State's third Phase 3B submission due February 23, 2024.

7 Dated: October 27, 2023

Respectfully submitted,

8 ROB BONTA
9 Attorney General of California

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11 */s/ Darrell W. Spence*
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